S.B. CIVIL WRIT PETITION NO.5709/2004

Poonma Ram vs. A.D.J., Jalore & ors.

Date : 25.1.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Mukul Singhvi, for the petitioner.

Mr. B.N. Kalla, for the respondent no.2.

- - - - -

At the request of learned counsel for parties, service of the respondent no.3 is dispensed with as the respondent no.3 is only a proforma respondent.

Heard learned counsel for the parties.

The petitioner is aggrieved against the order dated 17.7.2004 by which the trial court refused to extend time for filing the written statement even by one day. The trial court observed that the reason given for extension of time by the defendant is not sufficient.

The summon was served upon the defendant on 30.3.2004. The date for filing the written statement was fixed as on 6.7.2004. During this period, the period of 90 days expired which is the outer limit for filing the written statement by showing sufficient reasons for not filing the written statement. If the petitioner would have filed the written statement on 5.7.2004, it would have been within time as it was the

opening day after summer break. In these facts, the petitioner's right to file written statement has been denied by the trial court as it was filed on 6.7.2004 which is the date fixed in the case.

In view of the above, this writ petition is allowed and the order dated 17.7.2004 is set aside. The written statement already filed by the defendant/ petitioner is taken on record.

(PRAKASH TATIA), J.

S.Phophaliya